

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WILLIAM MCNAE and RONDA
MCNAE, husband and wife,

Plaintiffs,

v.

ARAG INSURANCE COMPANY,

Defendant.

CASE NO. 2:24-cv-00211-TL

ORDER GRANTING IN PART AND
DENYING IN PART DEFENDANT'S
MOTION FOR PROTECTIVE
ORDER

This matter is before the Court on Defendant ARAG Insurance Company's Motion for Protective Order re Deposition Scheduling. Dkt. No. 22. Having considered Defendant's motion, Plaintiffs' response (Dkt. No. 28), Defendant's reply (Dkt. No. 30), and the relevant record, the Court GRANTS IN PART AND DENIES IN PART Defendant's motion.

I. BACKGROUND

Defendant moves the Court to issue a protective order: (1) preventing Plaintiffs' Rule 30(b)(6) deposition of ARAG from proceeding on July 10 and ordering Plaintiff to re-note it to a

1 date mutually agreeable to ARAG; and (2) preventing Plaintiffs' deposition from proceeding or,
 2 in the alternative, granting ARAG leave to depose Plaintiffs on a subsequent date to be arranged
 3 by the parties. Dkt. No. 22 at 2–3.

4 Plaintiffs served their first written discovery on ARAG on March 22, 2024, and
 5 circulated topics for ARAG's Rule 30(b)(6) deposition on April 26, 2024. Dkt. No. 28 at 2, 3.
 6 Plaintiff has issued deposition notices for ARAG's 30(b)(6) deposition for July 10, 2024 (Dkt.
 7 No. 23-4), Plaintiff Ronda McNae for July 11, 2024 (Dkt. No. 23-6), Plaintiff William McNae
 8 (Dkt. No. 23-7), and ARAG's counsel Michael Mullaly for July 16, 2024 (Dkt. No. 23-5). Expert
 9 reports are currently due October 21, 2024, and discovery closes December 20, 2024. Dkt. No.
 10 19.

11 II. LEGAL STANDARD

12 A court may issue an order regarding the sequencing of discovery “for the parties’ and
 13 witnesses’ convenience and in the interests of justice.” Fed. R. Civ. P. 26(d)(3). When parties
 14 cannot arrive at a mutual agreement, a court has wide discretion to establish the time and place of
 15 depositions. *Hyde & Drath v. Baker*, 24 F.3d 1162, 1166 (9th Cir. 1994).

16 III. DISCUSSION

17 A. Rule 30(b)(6) Deposition

18 Shortly after Defendant advised Plaintiffs that its designees were not available on July
 19 10–12 but offered them for the following week (*i.e.*, July 16–18), Plaintiffs issued their Rule
 20 30(b)(6) deposition notice. Dkt. No. 22 at 4. Plaintiffs’ counsel are clearly available during that
 21 week as they have scheduled Mr. Mullaly’s deposition for one day during that time period. The
 22 Court is disappointed (to state it mildly) that Plaintiffs’ counsel would not work with
 23 Defendant’s counsel when they offered a date just six days after the requested date, necessitating
 24 motions practice. This is simply not a good use of either the Parties’ or the Court’s time,

1 especially given the close of discovery is over five months away. The Court, however, is
2 sympathetic to Plaintiffs for wanting to move the case forward as expeditiously as possible and
3 that an early Rule 30(b)(6) deposition often helps frame further discovery. Therefore, while the
4 Court will grant Defendant's request for a protective order preventing Plaintiffs from proceeding
5 with the Rule 30(b)(6) deposition on July 10, 2024, the Court will also order the parties to meet
6 and confer to set a date for this deposition to occur within forty-five (45) days of this Order
7 unless Plaintiffs agree to a date beyond this time frame.

8 **B. Depositions of the McNaes**

9 Plaintiffs have noted their own depositions for July 11 and 12, which they represent are
10 not preservation depositions (Dkt. No. 28 at 8) but is to "develop the factual record for future
11 motions and expert analysis." *Id.* at 3. The Court finds it unusual for a party to note its own
12 deposition other than when it is needed to preserve testimony since the party has access to its
13 own witnesses (here, themselves) and can submit declarations if needed for motions and expert
14 analysis. Normally, parties try to hold all their information as close to their vests as possible for
15 as long as possible. But nothing prevents Plaintiffs from taking their own depositions.

16 Defendant represents—and Plaintiffs do not dispute—it held off serving discovery
17 because it wished to explore resolution without burdening Plaintiffs with discovery or
18 unnecessary attorney's fees, but Plaintiffs' counsel preferred to discuss resolution after the
19 current round of discovery. Dkt. No. 22 at 10. The Court finds that Defendant will be prejudiced
20 if forced to proceed with the Plaintiffs' depositions before receiving discovery.

21 The Court strongly encourages the parties to try and work out a mutually acceptable date
22 for the depositions of the Plaintiffs as, again, the close of discovery is over five months away.
23 Nevertheless, the Court will not interfere with Plaintiffs' choice to proceed with their own
24 depositions (bearing the cost of their self-noted depositions) should they insist on proceeding on


July 11 and 12, although it appears it may be more of a strategic decision or gamesmanship to try to force Defendant to depose Plaintiffs before they have adequate discovery. On the other hand, the Court also will not interfere with Defendant's right to sequence discovery as it chooses, especially as the discovery cut off is months away. Therefore, if Plaintiffs choose to proceed with their depositions on July 11 and 12, the Court will allow Defendant to depose Plaintiffs at a subsequent time for seven-hour deposition each with Defendant bearing the costs for the subsequent deposition.

IV. CONCLUSION

For these reasons, the Court ORDERS the following:

1. The Court GRANTS Defendant's request for a protective order preventing Plaintiffs from proceeding with the Rule 30(b)(6) deposition on July 10, 2024. The Court further ORDERS the parties to meet and confer to set a mutually agreed upon date for this deposition to occur within forty-five (45) days of this Order.
2. The Court DENIES Defendant's request for a protective order preventing Plaintiffs' self-noted depositions from proceeding on July 11 and 12. Should Plaintiffs choose to proceed with their depositions on July 11 and 12, pursuant to Fed. R. Civ. P. 30(a)(2)(A)(ii), the Court GRANTS Defendant leave to depose each Plaintiff at a subsequent time for a seven-hour deposition.
3. The Court ORDERS the parties to utilize the procedure set forth in Local Civil Rule 37(a) for any future discovery disputes.

Dated this 5th day of July 2024.


 Tana Lin
 United States District Judge